

JOURNAL OF THE HOUSE.

Tuesday, July 1, 2008.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God, Our Creator, on this first day of a new month, we look to You for guidance as we examine, evaluate and address the items on the day's legislative calendar. We believe that Your assistance helps us to make the right, honorable and ethical choices as we, together, try to build a safe, stable and caring society. We recognize our limited ability to address all the complex, current and pressing needs of constituents and our communities. But we do believe that Your gift of wisdom enables us to make the best, most reasonable and most thoughtful decisions. As elected leaders, let our hearts and minds be filled with enthusiasm, hope and creativity as were the signers and framers of the Declaration of Independence. May we continue to respect the personal dignity and constitutional rights of all individuals in our respectful and orderly society.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayer.

During the session, at the request of Mr. Sannicandro of Ashland, the members, guests and employees stood in a moment of silent prayer in memory of U.S. Army Master Sergeant Shawn E. Simmons, who, at the age of 39, died while serving with the Army Special Forces near Khosrow-E Sofla in Kandahar Province, Afghanistan.

Master Sergeant Shawn E. Simmons.

Message from the Governor.

A message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the action taken at the special town election held in the town of Oak Bluffs (House, No. 4932) was filed this day in the office of the Clerk.

Oak Bluffs, validate election.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Election Laws. Sent to the Senate for concurrence.

Statement of Representative Kulik of Worthington.

A statement of Mr. Kulik of Worthington was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for yesterday's sitting due to my attendance at a Democratic Leadership Council meeting in Chicago, Illinois. Any roll calls that I missed yesterday was due entirely to the reason stated.

Statement of Representative Kulik of Worthington.

Statement of Representative Linsky of Natick.

A statement of Mr. Linsky of Natick was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for the final roll call of yesterday's session due to pre-existing family obligations. Had I been present for the taking of yea and nay No. 401, I would have voted in the affirmative.

Statement of Representative Linsky of Natick.

Petitions.

Mr. Galvin of Canton presented a petition (accompanied by bill, House, No. 4931) of Brian A. Joyce (by vote of the town) relative to the appointment of alternate members to the historical commission of the town of Canton by the board of selectmen of said town; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Canton, historical commission.

Mr. Rogers of Norwood presented a joint petition (subject to Joint Rule 12) of James E. Timilty and John H. Rogers for legislation to establish a sick leave bank for Timothy M. Larkin, an employee of the Division of Information Technology of the Commonwealth; and the same was referred, under Rule 24, to the committee on Rules.

Timothy M. Larkin, sick leave.

Papers from the Senate.

A Bill to establish the interstate compact for juveniles (Senate, No. 2178, amended in section 2, in lines 4 and 5, by striking out the sentence contained therein and inserting in place thereof the following sentence: "The commissioner of probation shall serve as the compact administrator and commissioner to the interstate commission for juveniles."; in section 3, in subsection 2, in lines 63 and 64, by striking out the words "appointed pursuant to section 3 of", after line 96, by inserting after said subsection 2 the following subsection: "Section 2A. Accused status offenders and non-offender juveniles shall not be detained in a secure detention facility or as otherwise prohibited by the purpose and intent of applicable state or federal laws." and in said section, in lines 486 to 489, inclusive, by striking out subsection 18) (on Senate, No. 89), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Juveniles, interstate compact.

A report of the committee on Consumer Protection and Professional Licensure, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2693) of Benjamin B. Downing for legislation relative to service quality standards, and recommending that the same be referred to the committee on

Service quality standards.

Telecommunications, Utilities and Energy,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

Reports of Committees.

Identity theft. By Mr. Rodrigues of Westport, for the committee on Consumer Protection and Professional Licensure, on House, No. 328, a Bill relative to identity theft (House, No. 4930).

Methamphetamine. By Mr. O'Flaherty of Chelsea, for the committee on Judiciary, on a petition, a Bill relative to the trafficking of methamphetamine (House, No. 3054).

Municipal fines. Mr. Pedone of Worcester, for the committee on Municipalities and Regional Government, reported, under the provisions of Joint Rule 3A, a Committee Bill relative to unpaid municipal fines (House, No. 4883).

Laws, gender neutrality. Mr. Scaccia of Boston, for the committee on Rules, on House, No. 4614, reported, in part, a Bill relative to gender neutral language in the Massachusetts General Laws (House, No. 1298).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Psychotherapy, regulating. By Mr. Koutoujian of Waltham, for the committee on Public Health, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4744) of Thomas J. Calter and others for legislation to further regulate the practice of psychotherapy,— and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Interior designers. By Mr. Rodrigues of Westport, for the committee on Consumer Protection and Professional Licensure, on House, No. 341, a Bill relative to certification of interior designers (House, No. 4906). Read; and referred, under Rule 33, to the committee on Ways and Means.

Health facilities, defibrillators. By Mr. Koutoujian of Waltham, for the committee on Public Health, that the recommitted Bill requiring automatic external defibrillators in health and wellness facilities (House, No. 3888) ought to pass with amendments in section 2, in line 9, by inserting after the words "against an" the word "charitable"; and in section 3, in line 1, by inserting after the word "All" the word "charitable".

Deceased persons, cremation. By the same member, for the same committee, that the recommitted Bill relative to the cremation of bodies of certain deceased persons (House, No. 4927) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4929).

Kayak safety. By Mr. Costello of Newburyport, for the committee on Public Safety and Homeland Security, that the recommitted Bill relative to kayak safety (House, No. 2382) ought to pass with an amendment in section 4, in lines 8 and 9, by inserting after the word "Association" the words "or American Red Cross certification in small craft safety and basic water rescue".

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendments pending.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, that the Bill authorizing the town of Lincoln to establish a post employment health insurance trust fund (House, No. 4775) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. *Lincoln, health insurance.*

Emergency Measure.

The engrossed Bill establishing a sick leave bank for Tracey Albrecht, an employee of the Trial Court (see House, No. 4843, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble. *Tracey Albrecht, sick leave bank.*

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 4 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. *Bill enacted.*

Orders of the Day.

Senate bills
Establishing the Bristol County Commission on the status of women (Senate, No. 1172); and *Third reading bills and resolve.*

Authorizing the town of Sandwich to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (Senate, No. 2524); and

The Senate Resolve providing for an investigation and study by a special commission relative to the establishment of a statewide law enforcement training program (Senate, No. 1342, amended);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

The House Bill authorizing the town of Bellingham to establish certain revolving funds (House, No. 4173), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence. *Third reading bill.*

Senate bills
Establishing a project mitigation contribution or linkage program for open space and historic preservation in the city of Somerville (Senate, No. 2167); *Second reading bills.*

Second

reading
bills.

Authorizing the establishment of a municipal open space and historic preservation trust fund in the city of Somerville (Senate, No. 2171); and

Authorizing the sale of alcoholic beverages on golf courses (Senate, No. 2769); and

House bills

Relative to clarifying responsibility in matters involving multiple defendants (House, No. 1073);

Authorizing the town of Sudbury to use certain insurance or recovery proceeds (House, No. 4835); and

Relative to the rental of pets (House, No. 4893);

Severally were read a second time; and they were ordered to a third reading.

House reports

House
reports.

Of the committee on Financial Services, ought NOT to pass, on the petition (accompanied by bill, House, No. 952) of Paul K. Frost for legislation to require health insurers to offer certain parents and parents-in-law a health insurance buy-in plan;

Of the committee on Tourism, Arts and Cultural Development, ought NOT to pass, on the petition (accompanied by bill, House, No. 3411) of Paul J. P. Loscocco and others relative to providing for the repeal of the local tourism grant program of the Massachusetts Turnpike Authority;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3917) of Paul K. Frost for legislation to establish a division of foreign travel and tourism within the Office of Travel and Tourism; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3918) of Paul K. Frost that the Office of Travel and Tourism be directed to administer a program for the promotion of foreign travel to the Commonwealth; and

Of the committee on Transportation, ought NOT to pass, on the petition (accompanied by bill, House, No. 3509) of Bradford Hill relative to motor vehicle appeals and hearings;

Severally were accepted.

Shannon
Crouse,
sick leave.

The House Bill establishing a sick leave bank for Shannon Crouse, an employee of the District Court of Southern Berkshire (House, No. 4866) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Speranzo of Pittsfield, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, its title having been changed by said committee to read: "An Act establishing a sick leave bank for Shannon Crouse, an employee of the Trial Court.

Pending the question on passing the bill to be engrossed, the same member moved to amend it by inserting before the enacting clause the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the Trial Court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted; and the bill (House, No. 4866, amended) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill providing employees at state and community colleges holding special state police officer powers with line of duty death benefits (House, No. 4797) (it title having been changed by the committee on Bill in the Third Reading) was read a third time.

State colleges,
police powers.

Pending the question on passing the bill to be engrossed, Mr. Golden of Lowell moved to amend it by substitution of a bill with the same title (House, No. 4933), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

Recess.

At six minutes after eleven o'clock A.M., on motion of Ms. Provost of Somerville (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at twenty-two minutes after one o'clock the House was called to order with Mr. Donato in the Chair.

Recess.

Quorum.

Mr. Jones of North Reading then asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 143 members were recorded as being in attendance.

Quorum,
yea and nay
No. 402.

[See Yea and Nay No. 402 in Supplement.]

Therefore a quorum was present.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments (striking out all after the enacting clause and inserting in place thereof the text of contained in Senate document numbered 2520; and striking out the title and inserting in place thereof the following title: "An Act to protect the children of the Commonwealth.") of the House Bill relative to child abuse and neglect (House, No. 4333), recommending passage of a Bill protecting children in the care of the Commonwealth (House, No. 4905), was considered.

Children,
protect.

After debate on the question on acceptance of the report, the sense of the House was taken by yeas and nays, at the request of Ms. Coakley-Rivera of Springfield; and on the roll call (Mrs. Harkins

Committee of
conference report
accepted,
yea and nay
No. 403.

of Needham being in the Chair) 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 403 in Supplement.]

Therefore the report of the committee of conference was accepted. Sent to the Senate for concurrence.

A report, on the residue, of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of contained in Senate document numbered 2685) of the House Bill improving tax fairness and business competitiveness (House, No. 4672), recommending passage of a Bill relative to tax fairness and business competitiveness (House, No. 4904), was considered.

Pending the question on acceptance of the report, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins of Needham), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 149 members were recorded as being in attendance.

[See Yea and Nay No. 404 in Supplement.]

Therefore a quorum was present.

After debate on the question on acceptance of the report, the sense of the House was taken by yeas and nays, at the request of Mr. Binienda of Worcester; and on the roll call (Mr. Donato of Medford being in the Chair) 137 members voted in the affirmative and 19 in the negative.

[See Yea and Nay No. 405 in Supplement.]

Subsequently a statement of Mr. Ayers of Quincy was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not recorded on the previous roll call due to being on official business outside of the State House.

Therefore the report of the committee of conference was accepted. Sent to the Senate for concurrence.

At thirteen minutes after six o'clock P.M., on motion of Mr. Fagan of Taunton (Mr. Donato of Medford being in the Chair), the House recessed until half past six o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

The House Bill relative to the agreement among states to elect the President by national popular vote (House, No. 678) was read a second time.

After debate on the question on ordering the bill to a third reading, Ms. Wolf of Cambridge moved that further consideration thereof be postponed until Tuesday, July 15, 2008.

Pending the question on the motion to postpone, the same member moved to amend her motion by striking out the date: "Tuesday, July 15" and inserting in place thereof the date: "Wednesday, July 9"; and the amendment was adopted.

The motion to postpone, as amended, then prevailed; and therefore further consideration of the bill was postponed, until Wednesday, July 9, 2008.

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance.

[See Yea and Nay No. 406 in Supplement.]

Therefore a quorum was present.

Emergency Measures.

The engrossed Bill relative to tax fairness and business competitiveness (see House, No. 4904), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 18 to 1. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Binienda of Worcester; and on the roll call 133 members voted in the affirmative and 20 in the negative.

[See Yea and Nay No. 407 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill protecting children in the care of the Commonwealth (see House, No. 4905), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 45 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

Tax fairness.

Quorum.

Quorum, yea and nay No. 404.

Committee of conference report accepted, yea and nay No. 405.

Statement of Representative Ayers of Quincy.

Recess.

U. S. President, popular vote.

Quorum.

Quorum, yea and nay No. 406.

Tax fairness.

Bill enacted, yea and nay No. 407.

Child abuse and neglect.

Bill enacted, yea and nay

No. 408.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Rogers of Norwood; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 408 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Next
sitting.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Mr. Welch of Springfield then moved that as a mark of respect to the memory of James C. Corcoran, Jr., a member of the House from West Springfield from 1961 to 1964, inclusive, the House adjourn; and the motion prevailed.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at two minutes after seven o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned to meet tomorrow at eleven o'clock A.M., in an Informal Session.